

party resources except as described under subsections (2) and (3) of this section.

(2) The department shall pay for medical services and seek reimbursement from the liable third party when the claim is for:

- (a) Prenatal care;
- (b) Labor, delivery, and post-partum care (except inpatient hospital costs) for a pregnant woman; or
- (c) Preventive pediatric services as covered under the EPSDT/healthy kids program.

(3) The department shall pay for medical services and seek reimbursement from any liable third party when:

(a) The provider submits to the department documentation of billing the third party and the provider has not received payment after thirty days from the date of services; and

(b) The claim is for a covered service provided to a client on whose behalf the office of support enforcement is enforcing an absent parent to pay support.

For the purpose of this section, "is enforcing" means the absent parent:

- (i) Is not complying with an existing court order; or
- (ii) Received payment directly from the third party and did not pay for the medical services.

(4) The provider may not bill the department or the client for a covered service when a third party pays a provider the department rate, or more.

(5) The provider shall refund to the department, when the third party pays the provider after the department has reimbursed the provider, the amount of the:

- (a) Third-party payment when the payment is less than the department's maximum allowable rate; or
- (b) Department's payment when the third-party payment is equal to or greater than the department's maximum allowable rate.

(6) The department shall not be responsible for payment of medical services when the third-party benefits are available to pay for the client's medical services at the time the provider bills the department, except as described under subsections (2) and (3) of this section.

(7) The client shall be liable for charges for covered medical services that would be paid by the third party payment when the client:

- (a) Receives direct third-party reimbursement for such services; or
- (b) Fails to execute legal signatures on insurance forms, billing documents, or other forms necessary to receive insurance payments for services rendered. See WAC 388-83-012 for assignment of rights.

(8) The department shall consider an adoptive family a third-party resource for the medical expenses of the birth mother and child only when there is a written contract between the adopting family and either the birth mother, the attorney, the provider, or the adoption service, which specifies that the adopting family shall pay for the medical care associated with the pregnancy.

(9) A provider shall not refuse to furnish covered services to a client because of a third party's potential liability for the services.

(10) For third-party liability on personal injury litigation claims, the department shall be responsible for providing medical services as described under WAC 388-87-020.

[Statutory Authority: RCW 74.08.090, 93-22-030 (Order 3658), § 388-87-250, filed 10/27/93, effective 11/27/93.]

## Chapter 388-90 WAC

### SKILLED NURSING HOME CARE IN STATE SCHOOLS FOR RETARDED PERSONS

#### WAC

388-90-010

Skilled nursing facility care in state school for retarded persons—Minimum requirements for licensure or approval of institution.

#### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-90-005

Skilled nursing facility care in state school for retarded persons. [Order 1097, § 388-90-005, filed 2/13/76; Order 918, § 388-90-005, filed 3/14/74; Order 826, § 388-90-005, filed 7/26/73; Order 668, § 388-90-005, filed 3/23/72; Order 556, § 388-90-005, filed 4/1/71; Order 486, § 388-90-005, filed 10/13/70.] Repealed by 78-10-077 (Order 1346), filed 9/27/78. Statutory Authority: RCW 74.08.090.

**WAC 388-90-010 Skilled nursing facility care in state school for retarded persons—Minimum requirements for licensure or approval of institution.** The institution, or any part thereof, shall meet all applicable requirements for licensure or formal approval as a skilled nursing facility.

[Order 930, § 388-90-010, filed 4/25/74; Order 486, § 388-90-010, filed 10/13/70.]

## Chapter 388-96 WAC

### NURSING FACILITY MEDICAID PAYMENT SYSTEM

#### WAC

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- Authority: RCW 74.46.800, 87-09-058 (Order 2485), § 388-96-774, filed 4/20/87. Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800, 85-17-052 (Order 2270), § 388-96-774, filed 8/19/85.] Repealed by 98-20-023, filed 9/25/98, effective 10/1/98.
- 388-96-775 Public review of rate-setting methods and standards. [Statutory Authority: RCW 74.09.120, 78-02-013 (Order 1264), § 388-96-775, filed 1/9/78.] Repealed by 93-19-074 (Order 3634), filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.46.800 and 74.09.120.
- 388-96-778 Public disclosure of rate-setting methodology. [Statutory Authority: RCW 74.09.120, 78-02-013 (Order 1264), § 388-96-778, filed 1/9/78.] Repealed by 98-20-023, filed 9/25/98, effective 10/1/98.
- 388-96-801 Billing period. [Order 1262, § 388-96-801, filed 12/30/77.] Repealed by 98-20-023, filed 9/25/98, effective 10/1/98.
- 388-96-804 Billing procedures. [Statutory Authority: RCW 74.09.120, 82-20-024 and 82-20-036 (Orders 1883 and 1883A), § 388-96-804, filed 9/29/82 and 9/30/82; Order 1262, § 388-96-804, filed 12/30/77.] Repealed by 98-20-023, filed 9/25/98, effective 10/1/98.
- 388-96-807 Charges to patients. [Statutory Authority: RCW 74.09.180 and 74.46.800, 89-01-095 (Order 2742), § 388-96-807, filed 12/21/88. Statutory Authority: RCW 74.09.120, 83-19-047 (Order 2025), § 388-96-807, filed 9/16/83; 82-21-025 (Order 1892), § 388-96-807, filed 10/13/82; Order 1262, § 388-96-807, filed 12/30/77.] Repealed by 98-20-023, filed 9/25/98, effective 10/1/98.
- 388-96-810 Payment. [Statutory Authority: RCW 74.46.800, 96-15-056, § 388-96-810, filed 7/16/96, effective 8/16/96; Order 1262, § 388-96-810, filed 12/30/77.] Repealed by 98-20-023, filed 9/25/98, effective 10/1/98.
- 388-96-813 Suspension of payment. [Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18, 95-19-037 (Order 3896), § 388-96-813, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.09.120, 83-19-047 (Order 2025), § 388-96-813, filed 9/16/83; Order 1262, § 388-96-813, filed 12/30/77.] Repealed by 98-20-023, filed 9/25/98, effective 10/1/98.
- 388-96-816 Termination of payments. [Statutory Authority: RCW 74.09.120, 83-19-047 (Order 2025), § 388-96-816, filed 9/16/83; Order 1262, § 388-96-816, filed 12/30/77.] Repealed by 98-20-023, filed 9/25/98, effective 10/1/98.
- 388-96-900 Definitions. [Order 1169, § 388-96-900, filed 11/10/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-902 Recoupment of undisputed overpayments. [Statutory Authority: RCW 74.09.120, 82-11-065 (Order 1808), § 388-96-902, filed 5/14/82.] Repealed by 95-19-037 (Order 3896), filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18.

**WAC 388-96-010 Definitions.** Unless the context indicates otherwise, the following definitions apply in this chapter.

**"Accounting"** means activities providing information, usually quantitative and often expressed in monetary units, for:

- (1) Decision-making;
- (2) Planning;
- (3) Evaluating performance;
- (4) Controlling resources and operations; and
- (5) External financial reporting to investors, creditors, regulatory authorities, and the public.

**"Administration and management"** means activities used to maintain, control, and evaluate the efforts and resources of an organization for the accomplishment of the objectives and policies of that organization.

**"Allowable costs"** - means documented costs that are necessary, ordinary, and related to the care of Medicaid recipients, and are not expressly declared nonallowable by this chapter or chapter 74.46 RCW. Costs are ordinary if

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they are of the nature and magnitude that prudent and cost conscious management would pay.

**"Allowable depreciation costs"** means depreciation costs of tangible assets, whether owned or leased by the contractor, meeting the criteria specified in RCW 74.46.330.

**"Anticipated patient days"** are calculated by multiplying the number of licensed beds at the nursing facility by the number of days in the cost report period used to set the property rate and multiplying the product by the nursing facility's expected occupancy, which must be at eighty-five percent or above.

**"Assignment of contract"** means:

(1) A new nursing facility licensee has elected to care for Medicaid residents;

(2) The department finds no good cause to object to continuing the Medicaid contract at the facility; and

(3) The new licensee accepts assignment of the immediately preceding contractor's contract at the facility.

**"Capitalized lease"** means a lease required to be recorded as an asset and associated liability in accordance with generally accepted accounting principles.

**"Cash method of accounting"** means a method of accounting in which revenues are recorded when cash is received, and expenditures for expense and asset items are not recorded until cash is disbursed for those expenditures and assets.

**"Change of ownership"** means a substitution of the individual operator or operating entity contracting with the department to deliver care services to medical care recipients in a nursing facility and ultimately responsible for the daily operational decisions of the nursing facility.

(1) Events which constitute a change of ownership include, but are not limited to, the following:

(a) Changing the form of legal organization of the contractor, e.g., a sole proprietor forms a partnership or corporation;

(b) Transferring ownership of the nursing facility business enterprise to another party, regardless of whether ownership of some or all of the real property and/or personal property assets of the facility are also transferred;

(c) Dissolving of a partnership;

(d) Dissolving the corporation, merging the corporation with another corporation, which is the survivor, or consolidating with one or more other corporations to form a new corporation;

(e) Transferring, whether by a single transaction or multiple transactions within any continuous twenty-four-month period, fifty percent or more of the stock to one or more:

(i) New or former stockholders; or

(ii) Present stockholders each having held less than five percent of the stock before the initial transaction; or

(f) Substituting of the individual operator or the operating entity by any other event or combination of events that results in a substitution or substitution of control of the individual operator or the operating entity contracting with the department to deliver care services.

(2) Ownership does not change when the following, without more, occurs:

(a) A party contracts with the contractor to manage the nursing facility enterprise as the contractor's agent, i.e., sub-

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ject to the contractor's general approval of daily operating and management decisions; or

(b) The real property or personal property assets of the nursing facility change ownership or are leased, or a lease of them is terminated, without a substitution of individual operator or operating entity and without a substitution of control of the operating entity contracting with the department to deliver care services.

**"Charity allowance"** means a reduction in charges made by the contractor because of the indigence or medical indigence of a patient.

**"Contract"** means an agreement between the department and a contractor for the delivery of nursing facility services to medical care recipients.

**"Cost report"** means all schedules of a nursing facility's cost report submitted according to the department's instructions.

**"Courtesy allowances"** means reductions in charges in the form of an allowance to physicians, clergy, and others, for services received from the contractor. Employee fringe benefits are not considered courtesy allowances.

**"Donated asset"** means an asset the contractor acquired without making any payment for the asset either in cash, property, or services. An asset is not a donated asset if the contractor:

- (1) Made even a nominal payment in acquiring the asset; or
- (2) Used donated funds to purchase the asset.

**"Equity capital"** means total tangible and other assets which are necessary, ordinary, and related to patient care from the most recent provider cost report minus related total long-term debt from the most recent provider cost report plus working capital as defined in this section.

**"Fiscal year"** means the operating or business year of a contractor. All contractors report on the basis of a twelve-month fiscal year, but provision is made in this chapter for reports covering abbreviated fiscal periods. As determined by context or otherwise, **"fiscal year"** may also refer to a state fiscal year extending from July 1 through June 30 of the following year and comprising the first or second half of a state fiscal biennium.

**"Gain on sale"** means the actual total sales price of all tangible and intangible nursing facility assets including, but not limited to, land, building, equipment, supplies, goodwill, and beds authorized by certificate of need, minus the net book value of such assets immediately prior to the time of sale.

**"Intangible asset"** is an asset that lacks physical substance but possesses economic value.

**"Interest"** means the cost incurred for the use of borrowed funds, generally paid at fixed intervals by the user.

**"Multiservice facility"** means a facility at which two or more types of health or related care are delivered, e.g., a hospital and nursing facility, or a boarding home and nursing facility.

**"Nonadministrative wages and benefits"** means wages, benefits, and corresponding payroll taxes paid for nonadministrative personnel, not to include administrator, assistant administrator, or administrator-in-training.

**"Nonallowable costs"** means the same as **"unallowable costs."**

**"Nonrestricted funds"** means funds which are not restricted to a specific use by the donor, e.g., general operating funds.

**"Per diem (per patient day or per resident day) costs"** means total allowable costs for a fiscal period divided by total patient or resident days for the same period.

**"Prospective daily payment rate"** means the rate assigned by the department to a contractor for providing service to medical care recipients prior to the application of settlement principles.

**"Recipient"** means a Medicaid recipient.

**"Related care"** includes:

- (1) The director of nursing services;
- (2) Activities and social services programs;
- (3) Medical and medical records specialists; and
- (4) Consultation provided by:
  - (a) Medical directors; and
  - (b) Pharmacists.

**"Relative"** includes:

- (1) Spouse;
- (2) Natural parent, child, or sibling;
- (3) Adopted child or adoptive parent;
- (4) Stepparent, stepchild, stepbrother, stepsister;
- (5) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law;
- (6) Grandparent or grandchild; and
- (7) Uncle, aunt, nephew, niece, or cousin.

**"Start-up costs"** means the one-time preopening costs incurred from the time preparation begins on a newly constructed or purchased building until the first patient is admitted. Start-up costs include:

- (1) Administrative and nursing salaries;
- (2) Utility costs;
- (3) Taxes;
- (4) Insurance;
- (5) Repairs and maintenance; and
- (6) Training costs.

Start-up costs do not include expenditures for capital assets.

**"Unallowable costs"** means costs which do not meet every test of an allowable cost.

**"Uniform chart of accounts"** means a list of account titles identified by code numbers established by the department for contractors to use in reporting costs.

**"Vendor number"** means a number assigned to each contractor delivering care services to medical care recipients.

**"Working capital"** means total current assets necessary, ordinary, and related to patient care from the most recent cost report minus total current liabilities necessary, ordinary, and related to patient care from the most recent cost report.

[Statutory Authority: RCW 74.46.800, 98-20-023, § 388-96-010, filed 9/25/98, effective 10/1/98, 97-17-040, § 388-96-010, filed 8/14/97, effective 9/14/97. Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18, 95-19-037 (Order 3896), § 388-96-010, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800, 94-12-043 (Order 3737), § 388-96-010, filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.46.800 and 74.09.120, 93-19-074 (Order 3634), § 388-96-010, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.09.120, 91-22-025 (Order 3270), §

388-96-010, filed 10/29/91, effective 11/29/91. Statutory Authority: RCW 79.09.120 [74.09.120] and 74.46.800. 90-09-061 (Order 2970). § 388-96-010, filed 4/17/90, effective 5/18/90. Statutory Authority: 1987 c 476. 88-01-126 (Order 2573). § 388-96-010, filed 12/23/87. Statutory Authority: RCW 74.09.120 and 74.46.800. 85-13-060 (Order 2240). § 388-96-010, filed 6/18/85. Statutory Authority: RCW 74.09.120. 84-24-050 (Order 2172). § 388-96-010, filed 12/4/84. Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105). § 388-96-010, filed 5/30/84. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025). § 388-96-010, filed 9/16/83; 82-21-025 (Order 1892). § 388-96-010, filed 10/13/82; 81-22-081 (Order 1712). § 388-96-010, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613). § 388-96-010, filed 2/25/81. Statutory Authority: RCW 74.09.120. 80-09-083 (Order 1527). § 388-96-010, filed 7/22/80; 79-04-061 (Order 1381). § 388-96-010, filed 3/28/79. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300). § 388-96-010, filed 6/1/78. Order 1262. § 388-96-010, filed 12/30/77.]

#### **WAC 388-96-020 Prospective cost-related payment.**

The nursing facility Medicaid payment system is the system used by the department to pay for nursing facility services provided to medical care recipients. Payment for nursing facility care shall be determined in accordance with this chapter and chapter 74.46 RCW. The provisions of chapter 74.46 RCW are incorporated by reference in this chapter as if fully set forth.

[Statutory Authority: RCW 74.46.800. 98-20-023. § 388-96-020, filed 9/25/98, effective 10/1/98. Statutory Authority: RCW 74.09.120 and 74.46.800. 85-13-065 (Order 2245). § 388-96-020, filed 6/18/85. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025). § 388-96-020, filed 9/16/83; 82-21-025 (Order 1892). § 388-96-020, filed 10/13/82. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300). § 388-96-020, filed 6/1/78; Order 1262. § 388-96-020, filed 12/30/77.]

**WAC 388-96-026 New contractors.** (1) For purposes of administering the payment system, the department shall consider a "new contractor" as one who receives a new vendor number and:

(a) Builds from the ground-up a new facility; and operates the new facility with completely new staff, administration and residents. If the "new contractor" operated a nursing facility immediately before the opening of the new facility, then the "new contractor" must operate the new facility with:

(i) Staff and administration that are substantially to completely different than the previous operation of the "new contractor"; and

(ii) A resident population that is substantially to completely different than the residents residing in the previous nursing facility; or

(b) Currently operates, acquires, or assumes responsibility for operating an existing nursing facility that was not operated under a Medicaid contract immediately prior to the effective date of the new Medicaid contract; or

(c) Purchases or leases a nursing facility that, at the time of the purchase or lease, was operated under a Medicaid contract.

(2) A new contractor shall submit:

(a) At least sixty days before the effective date of the contract or assignment, a statement disclosing the identity of individuals or organizations who:

(i) Have a beneficial ownership interest in the current operating entity or the land, building, or equipment of the facility; or

(ii) Have a beneficial ownership interest in the purchasing or leasing entity.

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(b) By March 31st of the following year, a cost report for the period from the effective date of the contract or assignment through December 31st of year the contract or assignment was effective.

[Statutory Authority: Chapter 74.46 RCW as amended by 1998 c 322. § 19(11) and RCW 74.46.800. 98-20-023. § 388-96-026, filed 9/25/98, effective 10/1/98. Statutory Authority: RCW 74.46.800. 74.46.450 and 74.09.120. 93-12-051 (Order 3555). § 388-96-026, filed 5/26/93, effective 6/26/93. Statutory Authority: RCW 74.46.800. 92-16-013 (Order 3424). § 388-96-026, filed 7/23/92, effective 8/23/92. Statutory Authority: RCW 74.09.180 and 74.46.800. 89-01-095 (Order 2742). § 388-96-026, filed 12/21/88. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025). § 388-96-026, filed 9/16/83; Order 1262. § 388-96-026, filed 12/30/77.]

**WAC 388-96-107 Requests for extensions.** (1) A contractor may request in writing an extension for submitting cost reports. Contractor requests shall:

(a) Be addressed to the manager, residential rates program;

(b) State the circumstances prohibiting compliance with the report due date; and

(c) Be received by the department at least ten days prior to the due date of the report.

(2) The department may grant two extensions of up to thirty days each, only if the circumstances, stated clearly, indicate the due date cannot be met and the following conditions are present:

(a) The circumstances were not foreseeable by the provider; and

(b) The circumstances were not avoidable by advance planning.

[Statutory Authority: RCW 74.09.180 and 74.46.800. 89-01-095 (Order 2742). § 388-96-107, filed 12/21/88. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025). § 388-96-107, filed 9/16/83; Order 1262. § 388-96-107, filed 12/30/77.]

#### **WAC 388-96-108 Failure to submit final reports.** (1)

If a nursing facility's contract is terminated or assigned, and the nursing facility does not submit a final cost report as required by RCW 74.46.040, the nursing facility shall return to the department all payments made to the terminating or assigning contractor relating to the period for which a report has not been received within sixty days after the terminating or assigning contractor receives a written demand from the department.

(2) Effective sixty days after the terminating or assigning contractor receives a written demand for payment, interest will begin to accrue payable to the department on any unpaid balance at the rate of one percent per month.

[Statutory Authority: RCW 74.46.040 and 74.46.050 as amended by 1998 c 322 §§ 3 and 4. 98-20-023. § 388-96-108, filed 9/25/98, effective 10/1/98. Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. 95-19-037 (Order 3896). § 388-96-108, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025). § 388-96-108, filed 9/16/83. Statutory Authority: RCW 74.08.090. 82-21-025 (Order 1892). § 388-96-108, filed 10/13/82.]

**WAC 388-96-117 Certification requirement.** Each required report shall be accompanied by a certification signed on behalf of the contractor responsible to the department during the report period. If the contractor files a federal income tax return, the certification shall be executed by the person normally signing this return. The certification shall also be

igned by the licensed administrator of the nursing home. If the report is prepared by someone other than an employee of the contractor, a separate statement shall be included with the certification signed by the individual preparing the report and indicating his or her status with the contractor. The certification of the cost report shall be submitted in original.

[Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800, 85-17-052 (Order 2270), § 388-96-117, filed 8/19/85; Order 1262, § 388-96-117, filed 12/30/77.]

**WAC 388-96-119 Reports—False information.** (1) If a contractor knowingly or with reason to know files a report containing false information, such action constitutes good cause for termination of its contract with the department.

(2) In accordance with RCW 74.46.531, the department will make adjustments to payment rates because a false report was filed.

(3) Contractors filing false reports may be referred for prosecution under applicable statutes.

[Statutory Authority: Chapter 74.46 RCW as amended by 1998 c 322 §§ 19(11) and 31 and RCW 74.46.800, 98-20-023, § 388-96-119, filed 9/25/98, effective 10/1/98; Order 1262, § 388-96-119, filed 12/30/77.]

**WAC 388-96-122 Amendments to reports.** (1) For the purpose of determining allowable costs, the department shall consider an amendment to an annual report only if filed by the provider before the receipt by the provider of the notification scheduling the department's audit. The contractor may file an amendment subsequent to such notification and pursuant to the provisions of RCW 74.46.531 to adjust a payment rate allocation because of an error or omission. When the provider files an amendment, the department shall consider it only if significant errors or omissions are discovered. The department shall deem errors or omissions "significant" when the errors or omissions would mean a net difference of two cents or more per patient day or one thousand dollars or more in reported costs, whichever is higher, in any component rate allocation. To file an amendment, only those cost report pages where changes appear need to be filed, together with the certification required by WAC 388-96-117.

(2) If an amendment is filed, a contractor shall also submit with the amendment an account of the circumstances relating to and the reasons for the amendment, along with supporting documentation. The department shall refuse to consider an amendment resulting in a more favorable settlement or payment rate allocation to a contractor if the amendment is not the result of circumstances beyond the control of the contractor or the result of good-faith error under the system of cost allocation and accounting in effect during the reporting period in question.

(3) Acceptance or use by the department of an amendment to a cost report shall in no way be construed as a release of applicable civil or criminal liability.

[Statutory Authority: Chapter 74.46 as amended by 1998 c 322 §§ 19(11) and 31 and RCW 74.46.800, 98-20-023, § 388-96-122, filed 9/25/98, effective 10/1/98. Statutory Authority: RCW 74.46.800, 86-10-055 (Order 2172), § 388-96-122, filed 5/7/86, effective 7/1/86, 84-12-039 (Order 2105), § 388-96-122, filed 5/30/84. Statutory Authority: RCW 74.09.120, 82-11-065 (Order 1808), § 388-96-122, filed 5/14/82, 79-03-021 (Order 1370), § 388-96-122, filed 2/21/79, Order 1262, § 388-96-122, filed 12/30/77.]

**WAC 388-96-202 Scope of audit or department audit.** (1) The department shall review the contractor's recordkeeping and accounting practices and, where appropriate, make written recommendations for improvements.

(2) The department's audit shall result in a schedule of summarizing adjustments to the contractor's cost report. The schedule shall show whether such adjustments eliminate costs reported or include costs not reported. Each adjustment listed shall include an explanation for the adjustment, the cost report account, and the dollar amount. In accordance with chapter 74.46 RCW, the department shall comply with the purpose of department audits by verifying that:

(a) Supporting records are in agreement with reported data;

(b) Only those assets, liabilities, and revenue and expense items the department has specified as allowable have been included by the contractor in computing the costs of services provided under its contract;

(c) Allowable costs have been accurately determined and are necessary, ordinary, and related to resident care;

(d) Related organizations and beneficial ownerships or interests have been correctly disclosed;

(e) Home office or central office costs have been reported and allocated in accordance with the provisions of this chapter and chapter 74.46 RCW;

(f) Recipient trust funds have been properly maintained;

(g) Facility receivables do not include benefits or payments to which the provider is not entitled; and

(h) The contractor is otherwise in compliance with the provisions of this chapter and chapter 74.46 RCW.

(3) In complying with the purpose of department audits in chapter 74.46 RCW, the department may select any or all schedules of a facility's cost report. The department shall audit cost reports, resident trust fund accounts, and facility receivables of each nursing facility participating in the Medicaid payment system as determined necessary by the department.

(4) When determining the contractor's final settlement, the department shall apply to reported costs adjustments written under subsection (2), whether used for the purpose of establishing component rate allocations as described in chapter 74.46 RCW or to ascertain contractor compliance with subsection (2).

[Statutory Authority: Chapter 74.46 RCW as amended by 1998 c 322 § 8 and RCW 74.46.800, 98-20-023, § 388-96-202, filed 9/25/98, effective 10/1/98.]

**WAC 388-96-217 Civil fines.** (1) When the department finds that a current or former contractor, or any partner, officer, director, owner of five percent or more of the stock of a current or former corporate contractor, or managing agent has failed or refused to comply with any requirement of chapters 74.46 RCW or 388-96 WAC, the department may assess monetary penalties of a civil nature not to exceed one thousand dollars per violation. Every day of noncompliance with any requirement of chapters 74.46 RCW or 388-96 WAC is a separate violation.

(2) The department may fine a contractor or former contractor or any partner, officer, director, owner of five percent or more of the stock of a current or former corporate contrac-

tor, or managing agent for the following but is not limited to the following in its fine assessments:

(a) Failure to file a mathematically accurate and complete cost report, including a final cost report, on or prior to the applicable due date established by this chapter or authorized by extension granted in writing by the department; or

(b) Failure to permit an audit authorized by this chapter or to grant access to all records and documents deemed necessary by the department to complete such an audit.

(3) The department shall send notice of a fine assessed under subsection (2) of this section by certified mail return receipt requested to the current contractor, administrator, or former contractor informing the addressee of the following:

(a) The fine shall become effective the date of receipt of the notice by the addressee; and

(b) If within two weeks of the date of receipt of the notice by the addressee, an acceptable cost report is received by the department; an audit is allowed; or access to documentation is allowed, as applicable, the department may waive the fine.

[Statutory Authority: RCW 74.46.800, 94-12-043 (Order 3737), § 388-96-217, filed 5/26/94; 87-09-058 (Order 2485), § 388-96-217, filed 4/20/87.]

**WAC 388-96-218 Proposed, preliminary, and final settlements.** (1) For each component rate, the department shall calculate a settlement at the lower of prospective payment rate or audited allowable costs, except as otherwise provided in this chapter.

(2) In the proposed settlement report, a contractor shall compare the contractor's payment rates during a report period, weighted by the number of resident days reported for the period when each rate was in effect, to the contractor's allowable costs for the reporting period. The contractor shall take into account all authorized shifting, retained savings, and upper limits to rates on a cost center basis.

(a) Within one hundred twenty days after a proposed settlement report is received, the department shall:

(i) Review the proposed settlement report for accuracy; and

(ii) Either accept or reject the proposal of the contractor. If accepted, the proposed settlement report shall become the preliminary settlement report. If rejected, the department shall issue, by cost center, a preliminary settlement report fully substantiating disallowed costs, refunds, or underpayments due and adjustments to the proposed preliminary settlement.

(b) A contractor shall have twenty-eight days after receipt of a preliminary settlement report to contest such report under WAC 388-96-901 and 388-96-904. Upon expiration of the twenty-eight-day period, the department shall not review or adjust a preliminary settlement report. Any administrative review of a preliminary settlement shall be limited to calculation of the settlement, to the application of settlement principles and rules, or both, and shall not encompass rate or audit issues.

(3) The department shall issue a final settlement report to the contractor after the completion of the department audit process, including exhaustion or termination of any administrative review and appeal of audit findings or determinations

requested by the contractor, but not including judicial review as may be available to and commenced by the contractor.

(a) The department shall prepare a final settlement by cost center and shall fully substantiate disallowed costs, refunds, underpayments, or adjustments to the cost report and financial statements, reports, and schedules submitted by the contractor. The department shall take into account all authorized shifting, savings, and upper limits to rates on a cost center basis. For the final settlement report, the department shall compare:

(i) The payment rate the contractor was paid for the facility in question during the report period, weighted by the number of allowable resident days reported for the period each rate was in effect to the contractor's;

(ii) Audited allowable costs for the reporting period; or

(iii) Reported costs for the nonaudited reporting period.

(b) A contractor shall have twenty-eight days after the receipt of a final settlement report to contest such report pursuant to WAC 388-96-901 and 388-96-904. Upon expiration of the twenty-eight-day period, the department shall not review a final settlement report. Any administrative review of a final settlement shall be limited to calculation of the settlement, the application of settlement principles and rules, or both, and shall not encompass rate or audit issues.

(c) The department shall reopen a final settlement if it is necessary to make adjustments based upon findings resulting from a department audit performed pursuant to RCW 74.46.100. The department may also reopen a final settlement to recover an industrial insurance dividend or premium discount under RCW 51.16.035 in proportion to a contractor's Medicaid recipients.

(4) In computing a preliminary or final settlement, a contractor may shift savings and/or overpayment in the support services cost center to cover a deficit and/or underpayment in the direct care or therapy cost centers up to the amount of the savings as provided in RCW 74.46.165(4). The provider's payment rate is subject to the provisions of RCW 74.46.421.

(5) If an administrative or judicial remedy sought by the facility is not granted or is granted only in part after exhaustion or mutual termination of all appeals, the facility shall refund all amounts due the department within sixty days after the date of decision or termination plus interest as payment on judgments from the date the review was requested pursuant to WAC 388-96-901 and WAC 388-96-904 to the date the repayment is made.

(6) In determining whether a facility has forfeited unused rate funds in its direct care, therapy care and support services component rates under authority of RCW 74.46.165(3), the following rules shall apply:

(a) Federal or state survey officials shall determine when a facility is not in substantial compliance or is providing substandard care, according to federal and state nursing facility survey regulations;

(b) Correspondence from state or federal survey officials notifying a facility of its compliance status shall be used to determine the beginning and ending dates of any period(s) of noncompliance; and

(c) Forfeiture shall occur if the facility was out of substantial compliance more than ninety days during the settle-



ment period. The ninety-day period need not be continuous if the number of days of noncompliance exceed ninety days during the settlement period regardless of the length of the settlement period. Also, forfeiture shall occur if the nursing facility was determined to have provided substandard quality of care at any time during the settlement period.

[Statutory Authority: Chapter 74.46 RCW as amended by 1998 c 322 §§ 9 and 10 and RCW 74.46.800, 98-20-023, § 388-96-218, filed 9/25/98, effective 10/1/98.]

**WAC 388-96-310 Interest on other excess payments.**

(1) Any contractor obtaining benefits or payments under the medical assistance program to which such contractor is not entitled or in an amount to which such contractor is not entitled, shall be liable for such benefits or payments received and for interest on the amount of benefits or payments from the date of receipt until repayment is made to the department at the rate of one percent per month, unless the contractor establishes the overpayment was the result of errors made by the department.

(2) Interest charged by the department or interest expense incurred by the contractor, from whatever source, in making refund to the department shall not be reimbursable by the department as an allowable cost. The contractor may, by payment of a disputed settlement in whole or in part, stop accrual of interest on the amount paid. Such payment will be without prejudice to obtain review of a settlement determination.

[Statutory Authority: RCW 74.09.120, 83-19-047 (Order 2025), § 388-96-310, filed 9/16/83.]

**WAC 388-96-366 Facility records and handling of resident moneys.** (1) A nursing facility may not require residents to deposit personal funds with the facility. A facility may hold a resident's personal funds only if the resident or resident's guardian provides written authorization.

(2) Once a nursing facility accepts the written authorization of the resident or resident's guardian, the facility shall hold, safeguard, and account for such personal funds under an established system in accordance with this chapter. The nursing facility shall establish and maintain as a service to the residents a bookkeeping system, incorporated in the business records and adequate for audit, for all resident moneys received by the facility.

(3) The nursing facility shall maintain the resident's or guardian's written authorization in the resident's file. The facility shall deposit any resident's personal funds in excess of fifty dollars in an interest-bearing resident personal fund account or accounts, separate from any of the facility's operating accounts, and credit all interest earned on an account to the account. With respect to any other personal funds, the facility shall keep such funds in a noninterest-bearing account or petty cash fund maintained for residents.

(4) The facility shall give the resident at least a quarterly reporting of all financial transactions involving personal funds held for the resident by the facility. The facility shall send the representative payee, the guardian, or other designated agents of the resident a copy of the quarterly accounting report.

(1999 Ed.)

(5) The nursing facility shall further maintain a written record of all personal property deposited with the facility for safekeeping by or for the resident. The facility shall issue or obtain written receipts upon taking possession or disposing of such property and retain copies and/or originals of such receipts. The facility shall maintain records adequate for audit.

(6) The facility shall purchase a surety bond, or otherwise provide assurances or security satisfactory to the department, to assure the security of all personal funds of residents deposited with the facility.

[Statutory Authority: RCW 74.46.800, 74.42.620 and 74.09.120, 90-20-075 (Order 3070), § 388-96-366, filed 9/28/90, effective 10/1/90. Statutory Authority: RCW 74.46.800, 87-09-058 (Order 2485), § 388-96-366, filed 4/20/87, Order 1168, § 388-96-366, filed 11/3/76; Order 1114 § 388-96-366, filed 4/21/76.]

**WAC 388-96-369 The nursing facility shall maintain a subsidiary ledger with an account for each resident for whom the facility holds money.** (1) The facility shall assure a full and complete separate accounting of each resident's personal funds. Each account record and related supporting information and documentation shall:

- (a) Be maintained at the facility;
- (b) Be kept current;
- (c) Be balanced each month; and
- (d) Show in writing and in detail, with supporting verification, all moneys received on behalf of the individual resident and the disposition of all moneys so received.

(2) Each account shall be reasonably accessible to the resident or the resident's guardian or legal representative and shall be available for audit and inspection by a department representative. Each account shall be maintained for a minimum of four years. A Medicaid provider shall notify each Title XIX Medicaid recipient or guardian and the community services office of the department when the amount in the account of any Title XIX Medicaid recipient reaches two hundred dollars less than the applicable dollar resource limit for supplemental security income (SSI) eligibility set forth in Title XVI of the Social Security Act.

(3) When notice is given under subsection (2) of this section, the facility shall notify the recipient or guardian that if the amount in the account, in addition to the value of the recipient's other nonexempt resources, reaches the dollar resource limit determined under Title XVI, the recipient may lose eligibility for SSI medical assistance or benefits under Title XVI.

(4) Accumulation toward the Title XVI limit, after the recipient's admission to the facility, is permitted only from savings from the clothing and personal incidentals allowance and other income which the department specifically designates as exempt income.

(5) No resident funds may be overdrawn (show a debit balance). If a resident wants to spend an amount greater than the facility is holding for the resident, the home may provide money from its own funds and collect the debt by installments from that portion of the resident's allowance remaining at the end of each month. No interest may be charged to residents for such loans.

(6) The facility may not impose a charge against the personal funds of a Medicare or Medicaid recipient for any item

or service for which payment is made under the Title XVIII Medicare program or the Title XIX Medicaid program. In order to ensure that Medicaid recipients are not charged for services provided under the Title XIX program, any charge for medical services otherwise properly made to a recipient's personal funds shall be supported by a written denial from the department.

(a) Mobility aids including walkers, wheelchairs, or crutches requested for the exclusive use by a Medicaid recipient shall have a written denial from the department of social and health services before a recipient's personal funds may be charged.

(b) Requests for medically necessary services and supplies not funded under the provisions of chapter 388-96 WAC or chapter 388-86 WAC (reimbursement rate or coupon system) shall have a written denial from the department before a Medicaid recipient's personal funds may be charged.

(c) A written denial from the department is not required when the pharmacist verifies that a drug is not covered by the program, e.g., items on the FDA list of ineffective or possible effective drugs, nonformulary over-the-counter (OTC) medications. The pharmacist's notation to this effect is sufficient.

[Statutory Authority: RCW 74.46.800, 74.42.620 and 74.09.120, 90-20-075 (Order 3070), § 388-96-369, filed 9/28/90, effective 10/1/90. Statutory Authority: RCW 74.42.620 and 74.46.800, 85-17-070 (Order 2275), § 388-96-369, filed 8/21/85. Statutory Authority: RCW 74.09.120, 83-19-047 (Order 2025), § 388-96-369, filed 9/16/83; 82-21-025 (Order 1892), § 388-96-369, filed 10/13/82; Order 1168, § 388-96-369, filed 11/3/76; Order 1114, § 388-96-369, filed 4/21/76.]

**WAC 388-96-372 The nursing facility may maintain a petty cash fund originating from resident personal funds of an amount reasonable and necessary for the size of the facility and the needs of the residents, not to exceed \$500.00.** (1) This petty cash fund shall be an imprest fund. All moneys over and above the petty cash limit of 500.00 shall be deposited intact in an interest bearing account or accounts maintained for resident personal funds, separate and apart from any other bank account of the facility or other facilities. All interest earned on an account containing resident personal funds shall be credited to such account.

(2) Cash deposits of recipient allowances must be made intact to the resident personal fund account within one week from the time that payment is received from the department, Social Security Administration, or other payor.

(3) Any related bankbooks, bank statements, checkbook, check register, and all voided and cancelled checks, shall be made available for audit and inspection by a department representative, and shall be maintained by the home for not less than four years.

(4) No service charges for such checking account shall be paid by residents or deducted from resident personal funds.

(5) The resident personal fund account or accounts per bank shall be reconciled monthly to the resident personal funds per resident ledgers.

[Statutory Authority: RCW 74.46.800, 74.42.620 and 74.09.120, 90-20-075 (Order 3070), § 388-96-372, filed 9/28/90, effective 10/1/90. Statutory Authority: RCW 74.09.120, 83-19-047 (Order 2025), § 388-96-372, filed 9/16/83; Order 1114, § 388-96-372, filed 4/21/76.]

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**WAC 388-96-375 Resident personal funds control/disbursement.** Personal funds shall be held and used for the benefit of the resident and are not to be turned over to anyone other than the resident or the resident's guardian without the written consent of the resident, the resident's designated agent as appointed by power of attorney, or appropriate department of social and health services personnel as designated by the CSO administrator.

(1) When money is received, a receipt shall be filled out in duplicate:

(a) One copy shall be given to the person making payment or deposit; and

(b) The other copy shall be retained in the receipt book for easy reference.

(2) Checks received by residents shall be endorsed by the resident. Schedule I-A(6e) of the agreement states in part: "Each patient receiving a check or state warrant is responsible for endorsement by his own signature. Only when the patient is incapable of signing his name may the Provider assume the responsibility of securing the patient's mark "X" followed by the name of the patient and the signature of two witnesses."

(3) If both a facility operating account and a resident personal fund account are at the same bank, the resident portion of checks which include care payments can be deposited directly to the resident account by including a resident account deposit slip for the correct amount with the checks and the operating account deposit slip.

(4) The resident's ledger sheet shall be credited with the allowance received. This shall be referenced with the receipt number and shall be supported by a copy of the deposit slip (one copy for all deposits made).

[Statutory Authority: RCW 74.46.800, 74.42.620 and 74.09.120, 90-20-075 (Order 3070), § 388-96-375, filed 9/28/90, effective 10/1/90. Statutory Authority: RCW 74.09.120, 82-21-025 (Order 1892), § 388-96-375, filed 10/13/82; Order 1168, § 388-96-375, filed 11/3/76; Order 1114, § 388-96-375, filed 4/21/76.]

**WAC 388-96-378 Resident personal funds availability.** Funds held for any resident shall be available for the resident's personal and incidental needs when requested by the resident or one of the individuals designated in WAC 388-96-375.

[Statutory Authority: RCW 74.46.800, 74.42.620 and 74.09.120, 90-20-075 (Order 3070), § 388-96-378, filed 9/28/90, effective 10/1/90; Order 1114, § 388-96-378, filed 4/21/76.]

**WAC 388-96-381 Procedure for refunding resident personal funds.** (1) When a resident is discharged or transferred, the balance of the resident's personal funds shall be returned to the individual designated in WAC 388-96-375 within one week and a receipt obtained. In some cases it may be advisable to mail the refund to the resident's new residence.

[Statutory Authority: RCW 74.46.800, 74.42.620 and 74.09.120, 90-20-075 (Order 3070), § 388-96-381, filed 9/28/90, effective 10/1/90; Order 1114, § 388-96-381, filed 4/21/76.]

**WAC 388-96-384 Liquidation or transfer of resident personal funds.** (1) Upon the death of a resident, the facility shall promptly convey the resident's personal funds held by



the facility with a final accounting of such funds to the department or to the individual or probate jurisdiction administering the resident's estate.

(a) If the deceased resident was a recipient of long-term care services paid for in whole or in part by the state of Washington then the personal funds held by the facility and the final accounting shall be sent to the state of Washington, department of social and health services, office of financial recovery (or successor office).

(b) The personal funds of the deceased resident and final accounting must be conveyed to the individual or probate jurisdiction administering the resident's estate or to the state of Washington, department of social and health services, office of financial recovery (or successor office) no later than the forty-fifth day after the date of the resident's death.

(i) When the personal funds of the deceased resident are to be paid to the state of Washington, those funds shall be paid by the facility with a check, money order, certified check or cashier's check made payable to the secretary, department of social and health services, and mailed to the Office of Financial Recovery, Estate Recovery Unit, P.O. Box 9501, Olympia, Washington 98507-9501, or such address as may be directed by the department in the future.

(ii) The check, money order, certified check or cashier's check or the statement accompanying the payment shall contain the name and social security number of the deceased individual from whose personal funds account the monies are being paid.

(c) The department of social and health services shall establish a release procedure for use of funds necessary for burial expenses.

(2) In situations where the resident leaves the nursing home without authorization and the resident's whereabouts is unknown:

(a) The nursing facility shall make a reasonable attempt to locate the missing resident. This includes contacting:

- (i) Friends,
- (ii) Relatives,
- (iii) Police,
- (iv) The guardian, and
- (v) The community services office in the area.

(b) If the resident cannot be located after ninety days, the nursing facility shall notify the department of revenue of the existence of "abandoned property," outlined in chapter 63.29 RCW. The nursing facility shall deliver to the department of revenue the balance of the resident's personal funds within twenty days following such notification.

(3) Prior to the sale or other transfer of ownership of the nursing facility business, the facility operator shall:

(a) Provide each resident or resident representative with a written accounting of any personal funds held by the facility;

(b) Provide the new operator with a written accounting of all resident funds being transferred, and

(c) Obtain a written receipt for those funds from the new operator.

[Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18, 95-19-037 (Order 3896), § 388-96-384, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800, 74.42.620 and 74.09.120, 90-20-075 (Order 3070), § 388-96-384, filed 9/28/90, effective 10/1/90. Statutory Authority: 1987 c 476, 88-01-126 (Order 2573), § 388-96-384, filed 12/23/87. Statutory

(1999 Ed.)

Authority: RCW 74.09.120, 82-21-025 (Order 1892), § 388-96-384, filed 10/13/82. Order 1168, § 388-96-384, filed 11/3/76. Order 1114, § 388-96-384, filed 4/21/76.]

**WAC 388-96-502 Indirect and overhead costs.** Subject to the provisions of this chapter and chapter 74.46 RCW, when a contractor provides goods or services that are not reimbursable, any indirect or overhead costs associated with their provision must be allocated to such goods or services on a reasonable basis approved by the department and must not be reported as allowable costs.

[Statutory Authority: RCW 74.46.800, 98-20-023, § 388-96-502, filed 9/25/98, effective 10/1/98. Statutory Authority: 1987 c 476, 88-01-126 (Order 2573), § 388-96-502, filed 12/23/87. Statutory Authority: RCW 74.46.800, 86-10-055 (Order 2372), § 388-96-502, filed 5/7/86, effective 7/1/86; 84-12-039 (Order 2105), § 388-96-502, filed 5/30/84.]

**WAC 388-96-505 Offset of miscellaneous revenues.**

(1) The contractor shall reduce allowable costs whenever the item, service, or activity covered by such costs generates revenue or financial benefits (e.g., purchase discounts, refunds of allowable costs or rebates) other than through the contractor's normal billing for care services; except, the department shall not deduct from the allowable costs of a nonprofit facility unrestricted grants, gifts, and endowments, and interest therefrom.

(2) The contractor shall reduce allowable costs for hold-bed revenue in the support services, operations and property rate components only. In the support services rate component, the amount of reduction shall be determined by dividing a facility's allowable housekeeping costs by total adjusted patient days and multiplying the result by total hold-room days. In the operations rate component, the amount of the reduction shall be determined by dividing a facility's allowable operation costs by total adjusted patient days and multiplying the result by total hold-room days. In the property rate component, the amount of reduction shall be determined by dividing allowable property costs by the total adjusted patient days and multiplying the result by total hold-room days.

(3) Where goods or services are sold, the amount of the reduction shall be the actual cost relating to the item, service, or activity. In the absence of adequate documentation of cost, it shall be the full amount of the revenue received. Where financial benefits such as purchase discounts, refunds of allowable costs or rebates are received, the amount of the reduction shall be the amount of the discount or rebate. Financial benefits such as purchase discounts, refunds of allowable costs and rebates, including industrial insurance rebates, shall be offset against allowable costs in the year the contractor actually receives the benefits.

(4) Only allowable costs shall be recovered under this section. Costs allocable to activities or services not included in nursing facility services, e.g., costs of vending machines and services specified in chapter 388.86 WAC not included in nursing facility services, are nonallowable costs.

[Statutory Authority: RCW 74.46.800, 98-20-023, § 388-96-505, filed 9/25/98, effective 10/1/98. Statutory Authority: RCW 74.46.200 and 74.46.800, 97-17-040, § 388-96-505, filed 8/14/97, effective 9/14/97. Statutory Authority: RCW 74.46.800 and 74.09.120, 93-19-074 (Order 3634), § 388-96-505, filed 9/11/93, effective 10/1/93. Statutory Authority: RCW 74.46.800, 92-16-013, Order 3424, § 388-96-505, filed 7/23/92, effective

8/23/92. Statutory Authority: 1987 c 476 88-01-126 (Order 2573), § 388-96-505, filed 12/23/87. Statutory Authority: RCW 74.09.120, 84-24-050 (Order 2172), § 388-96-505, filed 12/4/84; 82-21-025 (Order 1892), § 388-96-505, filed 10/13/82. Statutory Authority: RCW 74.09.120 and 74.46.800, 81-06-024 (Order 1613), § 388-96-505, filed 2/25/81. Statutory Authority: RCW 74.08.090 and 74.09.120, 78-06-080 (Order 1300), § 388-96-505, filed 6/1/78. Order 1262, § 388-96-505, filed 12/30/77.]

**WAC 388-96-525 Education and training.** (1) Necessary and ordinary expenses of on-the-job training and in-service training required for employee orientation and certification training directly related to the performance of duties assigned will be allowable costs. Cost of training for which the nursing facility is reimbursed outside the payment rate is an unallowable cost.

(2) Necessary and ordinary expenses of recreational and social activity training conducted by the contractor for volunteers will be allowable costs. Expenses of training programs for other nonemployees will not be allowable costs.

(3) Expenses for travel, lodging, and meals associated with education and training in the states of Idaho, Oregon, and Washington and the province of British Columbia are allowable if the expenses meet the requirements of this chapter.

(4) Except travel, lodging, and meal expenses, education and training expenses at sites outside of the states of Idaho, Oregon, and Washington and the province of British Columbia are allowable costs if the expenses meet the requirements of this chapter.

(5) Costs designated by this section as allowable shall be subject to any applicable cost center limit established by this chapter.

[Statutory Authority: RCW 74.46.800, 98-20-023, § 388-96-525, filed 9/25/98, effective 10/1/98; 94-12-043 (Order 3737), § 388-96-525, filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.46.800 and 74.09.120, 93-19-074 (Order 3634), § 388-96-525, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.46.800, 84-12-039 (Order 2105), § 388-96-525, filed 5/30/84. Statutory Authority: RCW 74.09.120, 81-22-081 (Order 1712), § 388-96-525, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800, 81-06-024 (Order 1613), § 388-96-525, filed 2/25/81. Statutory Authority: RCW 74.09.120, 80-06-122 (Order 1510), § 388-96-525, filed 5/30/80, effective 7/1/80; Order 1262, § 388-96-525, filed 12/30/77.]

**WAC 388-96-530 What will be allowable compensation for owners, relatives, licensed administrator, assistant administrator, and/or administrator-in-training?** Subject to any applicable cost center limit established by chapter 74.46 RCW, total allowable compensation shall be:

(1) As provided in the employment contract, including benefits, whether such contract is written, verbal, or inferred from the acts of the parties; or

(2) In the absence of a contract, gross salary or wages excluding payroll taxes and benefits made available to all employees, e.g., health insurance.

[Statutory Authority: RCW 74.46.800, 98-20-023, § 388-96-530, filed 9/25/98, effective 10/1/98.]

**WAC 388-96-532 Does the contractor have to maintain time records?** (1) The contractor shall maintain time records that are adequate for audit for owners, relatives, the licensed administrator, assistant administrator, and/or administrator-in-training. The contractor shall include in

such records verification of the actual hours of service performed for the nursing home and shall document compensated time was spent in provision of necessary services actually performed.

(2) If the contractor has no or inadequate time records, the undocumented cost of compensation shall be unallowable.

[Statutory Authority: RCW 74.46.800, 98-20-023, § 388-96-532, filed 9/25/98, effective 10/1/98.]

**WAC 388-96-534 Joint cost allocation disclosure (JCAD).** (1) The contractor shall disclose to the department:

(a) The nature and purpose of all costs representing allocations of joint facility costs; and

(b) The methodology of the allocation utilized.

(2) The contractor shall demonstrate in such disclosure:

(a) The services involved are necessary and nonduplicative; and

(b) Costs are allocated in accordance with benefits received from the resources represented by those costs.

(3) The contractor shall make such disclosure not later than September 30th for the following year; except, a new contractor shall submit the first year's disclosure together with the submissions required by WAC 388-96-026. Within this section, the meaning of the:

(a) "Effective date" is the date the department will recognize allocation per an approved JCAD; and

(b) "Implementation date" is the date the facility will begin or began incurring joint facility costs.

(4) The department shall determine the acceptability of the JCAD methodology not later than December 31 of each year for all JCADs received by September 30th.

(a) The effective date of an acceptable JCAD that was received by September 30th is January 1st.

(b) The effective date of an acceptable JCAD that was received after September 30th shall be ninety days from the date the JCAD was received by the department.

(5) The contractor shall submit to the department for approval an amendment or revision to an approved JCAD methodology at least thirty days prior to the implementation date of the amendment or revision. For amendments or revisions received less than thirty days before the implementation date, the effective date of approval will be thirty days from the date the JCAD is received by the department.

(6) When a contractor, who is not currently incurring joint facility costs, begins to incur joint facility costs during the calendar year, the contractor shall provide the information required in subsections (1) and (2) of this section at least ninety days prior to the implementation date. If the JCAD is not received ninety days before the implementation date, the effective date of the approval will be ninety days from the date the JCAD is received by the department.

(7) Joint facility costs not disclosed, allocated, and reported in conformity with this section are nonallowable costs. Joint facility costs incurred before the effective dates of subsections (4), (5), and (6) of this section are unallowable. Costs disclosed, allocated, and reported in conformity with a department-approved JCAD methodology must undergo review and be determined allowable costs for the purposes of rate setting and audit.